



**STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
REAL ESTATE APPRAISER COMMISSION  
500 JAMES ROBERTSON PARKWAY, SUITE 620  
NASHVILLE, TENNESSEE 37243  
615-741-1831**

**March 10, 2008  
Room 160, Davy Crockett Tower**

The Tennessee Real Estate Appraiser Commission met March 10, 2008, at 9:25 a.m. in Nashville, Tennessee, at the Davy Crockett Tower in Room 160. Chairman, William R. Flowers, Jr., called the meeting to order and the following business was transacted.

**COMMISSION MEMBERS PRESENT**

William R. Flowers, Jr.  
Marc Headden  
John Bullington  
Kenneth Woodford  
James E. Wade, Jr.

**COMMISSION MEMBERS ABSENT**

Jason West  
Dr. Edward A. Barylak  
Herbert Phillips

**STAFF MEMBERS PRESENT**

Nikole Avers, Administrative Director  
Jesse D. Joseph, Staff Attorney  
Angie Stephens, Administrative Assistant

**ADOPT AGENDA**

The Commission voted to adopt the agenda. Mr. Bullington made the motion to accept the agenda and it was seconded by Mr. Headden. The motion carried unopposed.

**MINUTES**

The February 2008 minutes were reviewed. Mr. Bullington made the motion to accept the minutes as written. It was seconded by Mr. Woodford. The motion carried unopposed.

**GENERAL BUSINESS**

**Applicant Conference – PSI Exam Applicant**

On December 29, 2007 there was an altercation at the PSI testing center in Nashville between Sydney Hedrick and the exam proctor. Mr. Hedrick was removed from the approved candidate for the exam list as a result. Mr. Hedrick was asked by administrative staff to attend this meeting to address this matter with the Commission members. Mr. Hedrick submitted a letter to the

Commission elaborating on what took place on that day and also letters of apology to the staff, Commission, and the PSI proctor. Mr. Hedrick explained to the Commission members that on December 29, the last testing day of 2007, no proctor showed up in the morning to give the exam. He said that there were about five to seven people there that morning waiting to take the exam. He stated that the exam registrants called PSI in Las Vegas. After he left the testing center, one of the other registrants for the exam that day called Mr. Hedrick and told him that if he hadn't left Nashville already that one of the proctors would be there at noon. He came back to PSI but the proctor wouldn't allow him to take the test. Mr. Hedrick stated the person wouldn't listen to him, and he placed his hand on this persons shoulder to turn the proctor towards him and that caused the man to fall out of his chair. The proctor accused Mr. Hedrick of pushing him to the ground and the police were called. Mr. Hedrick stated this incident was an error in judgment on his part and he has nothing but remorse about the matter. Mr. Bullington asked if a representative from PSI was present. Ms. Avers stated that they were not, but had provided a copy of the police report. Ms. Avers stated she called the Metro police regarding this matter and spoke with Sgt. Patton. He told her this matter had been closed with no prosecution. She stated that this matter was presented to the Commission because PSI had banned him from taking the test and that she was not aware of any provision in the Rules to do that. She stated this matter was presented because the Commission may just need to reassert permission to take the examination to PSI and that provision could be made to accomplish this. Mr. Bullington stated he didn't see anything they could rule on, and that, if the testing agency cannot handle its situation and cannot have people there on time to give the test, perhaps the Commission should look into their contract with the State of Tennessee. Mr. Headden asked what are we (the Commission) being asked to decide. Ms. Avers stated given the nature of the situation and that character questions of similar nature are asked on applications, she felt that she needed to present this matter to gain re-approval for Mr. Hedrick to take the exam. Mr. Hedrick stated that he was trying to take the exam prior to the end of the year, but now that the test has changed it will probably be a year to two years before he attempts to take the test again. Mr. Headden stated he would rather defer the matter because Mr. Hedrick is going to have to come through again at that time. Ms. Avers stated that usually the test approval is not contingent on Commission approval, but is handled by staff. Mr. Headden stated that since Mr. Hedrick doesn't plan to take the test he would rather vote on it in January of 2009 when he plans to take the test. Mr. Hedrick stated that he was okay with the Commission waiting; however, if he was never to be allowed to take the examination, why should he continue to work as a trainee. Ms. Avers expressed concern also that she would like, at least, some type of letter in Mr. Hedrick's file pertaining to this from the Commission in case there is a future change in leadership. She stated that PSI will expect a letter in order to place him back on the list. She further stated PSI had required others in similar situations, to obtain a security escort in order for the applicant to take the test. Mr. Headden again stated he would rather defer this so both sides had more time for a cooling off period. Mr. Bullington stated he would like to meet with the testing agency and to gain further information if this was an isolated incidence or is there a problem with this test provider. Ms. Avers stated that from PSI communication, that there had been a computer scheduling error on the morning of the 29<sup>th</sup> of December and that no proctor had been assigned to come in that morning. It was a Saturday and the proctor that arrived at noon that day did not call their headquarters to request additional resources for the exam registrants. That Saturday was the last testing day of the year and the next business day, per AQB requirements, the new exam had to go into effect on January 1, 2008. Mr. Bullington said that he believed that the negligence of the exam provider should be addressed with the State of Tennessee. Mr. Hedrick stated he was responsible for his actions and asked if there is anything he can do to prove he was not that type of person to

the Commission. Mr. Bullington related that he didn't feel that it was necessary. Mr. Wade stated that he felt this was more an issue of negligence on the part of PSI. Mr. Wade made the recommendation that the staff attorney look into this matter further. Mr. Headden seconded that motion. Mr. Bullington added to this discussion that a possible amendment to the recommendation should be that the attorney should send PSI a letter to request a representative of PSI be present at a Commission meeting. Mr. Wade agreed and amended his recommendation to reflect that. Mr. Bullington asked if there was anything the Commission can do to help this applicant relieve the situation. Ms. Avers stated he would have to take the new exam, that the AQB does not have waivers for people to go back and take the old test, and that a lot of people across the country were unable to take the old test before the end of the year. Staff attorney stated as he understands the matter this would be a two step process, first that a letter would need to be sent to PSI to request their presence at an upcoming Commission meeting so that the Commission can determine if there was a pattern or practice of negligence on the part PSI, then the second step, if the Commission is not satisfied with their responses, then the matter should be referred to the State contracting office through the Department of Finance and Administration. They are the appropriate agency to determine if there are appropriate sanctions or if changes to the contract are needed. Mr. Flowers asked if there was any further discussion, being none he called for a vote. The motion carried unanimously.

#### **Experience Interviews**

**Christopher Bach Anderson** made application to upgrade from a registered trainee to licensed appraiser. Mr. Flowers was the reviewer. He stated that the experience work was excellent and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**Liesa C. Pope** made application to upgrade from a registered trainee to licensed appraiser. Mr. Flowers was the reviewer. He stated that the experience work was excellent and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**William Shook** made application to upgrade from a registered trainee to certified residential appraiser. Mr. Wade was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**Edgar James Wilson** made application as an out of state applicant to become a certified general appraiser. Mr. Headden was the reviewer and stated that he found the report not to be sufficient. He stated that the income approach was lacking and there were a few other USPAP violations. He recommended that the applicant not re-apply for certification for 12 months and that a new application, experience log, and experience interview would be required at that time. Mr. Wade made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**Christine W. Charlton** made application to upgrade from a registered trainee to licensed appraiser. Mr. Woodford was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Wade seconded the motion. The motion carried unopposed.

**Jason Dunkle**, made application to upgrade from a registered trainee to certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**Albert J. Behnke**, made application to upgrade from a licensed appraiser to certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Woodford made the motion to accept the recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

**William Keith Boykin**, made application to upgrade from a registered trainee to certified residential appraiser. Mr. Bullington was the reviewer and recommended approval. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**Stacey D. O'Neal**, made application to upgrade from a registered trainee to certified residential appraiser. Mr. Bullington was the reviewer and stated that Ms. O'Neal reports were satisfactory and he recommended approval. Mr. Bullington also stated he wanted the Commission to file a complaint against the supervisor for the USPAP violations found in previous appraisals. Mr. Headden made the motion to accept the recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

### **Education Committee Report**

Dr. Baryla could not be in attendance for the Commission meeting; therefore, Ms. Avers read e-mail correspondence into the record for the recommendation from Dr. Baryla. Dr. Baryla had stated in an e-mail that he believed the course meets the guidelines established under 1255-2-.04 (1) (a), (2), (4) and (5) and 1255-2-.05 (f). With regard to 1255-2-.04 (3), Dr. Baryla stated that since no more than 50% of continuing education can be taken on-line the same standard would apply for qualifying education. Further that (4) and (5) would be accepted because the learning testing module ensures a mastery of the material before a student can proceed. The time taken would vary from student to student, but he did not believe that this would violate the spirit of (4) and (5). Ms. Avers had replied back in an e-mail that her concern was that there is no specific limitation in the Rules for the amount of on-line qualifying education a person could take. She replied that it may be the Commission's intent to limit the total; however, with no Rule pertaining to this limitation; it could not be enforced unless the Rules were changed in a Rule making hearing. Dr. Baryla replied to Ms. Avers that based on this interpretation of the rules, he would recommend against approval. He stated in his e-mail that, "I am not philosophically opposed to online courses, or a 100% online experience, but since the rules say 50% for continuing education, I do not believe it appropriate for the Commission to adopt a policy for qualifying education that might exceed that limit. My interpretation has always been there is a stricter standard for qualifying education than continuing education. If the 50% cannot be enforced for qualifying education, than I believe it would be a violation of the spirit of the Rules by approving this course." The Chairman opened the matter for discussion by the Commission members. After some discussion, Mr. Woodford made a motion to defer this matter to the next Commission meeting until Dr. Baryla can be in attendance for the discussion. Mr. Headden seconded that motion. The motion carried unopposed.

**EDUCATION COMMITTEE REPORT**  
**March 10, 2008**

Provider Name	Course Number	Course Name	Course Instructors	Hrs.	Type
The Columbia Institute	1175	On-Line Residential Report Writing and Case Studies, No. 929	George R. Harrison and Robert Hetrick	15	QE-Online  Deferred Until April

**LEGAL REPORT**

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**1. L07-APP-RBS-2007088451 - Mr. Wade was the Reviewer**

The Complainant sent in an appraisal review of the Respondent's 2006 appraisal which stated that the Respondent misreported neighborhood information, failed to report property characteristics, used inappropriate comparables and over-valued the subject property.

The Respondent stated in his response letter that there were considerable errors made in the report and the points made by the reviewer were valid. He stated he believed this occurred because he merged several appraisal reports. He further stated he could not find that this had happened on other files. He stated the sketch does not match the home, the location map has different comparable addresses and the invoice has difference names than listed. He also stated the photo clearly shows the house is not made of brick and wood. He stated he will be implementing a better quality control process and will cooperate with the Commission fully in resolution of this matter.

The Respondent's license in Alabama expired 9/30/2006. His license in Georgia expired 10/31/2007. In addition, his license was suspended in Georgia, which Respondent stated was on account of failure to pay child support. The Respondent has no other appraiser's licenses noted on the Federal Registry.

*Prior Complaint / Disciplinary History:* 200316913 (Dismissed)

**Recommendation and reasoning:** Mr. Wade recommended a consent order for approval which would include a civil penalty of \$3,000 and a two day (15 hour) Report Writing course. This recommendation is due to the number of errors of omissions and commission which made the appraisal report non-credible. Additionally, Mr. Wade recommended that if the appraiser had previously taken the report writing course, that the Respondent take this course from a different provider.

**Vote:** Mr. Headden made the motion to accept recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**2. L07-APP-RBS-2007089851 - Mr. Woodford was the Reviewer**

This complaint was filed anonymously and alleged the Respondent failed to identify seller concessions and superior property characteristics in the comparables used in a residential

appraisal and failed to make adjustments in the sales comparison approach for these elements of comparison.

The Respondent stated in his response letter that the sale concessions of \$5790 on this transaction is 3% of the sales price and 0-6% sales concessions are normal in this market and it would be atypical for him to make an adjustment for normal sales concessions. He further stated that the condition of comparable one appeared similar to the subject from viewing that comparable from the exterior. The Respondent stated that since the comparables were viewed from the exterior, he had no way to verify the condition of the kitchen of comparable two as reported in the MLS as updated. The MLS did include a virtual tour statement and had information on the pool and Koi pond. The Respondent stated that pools generally have minimal contributory value in that market. The Respondent stated regarding the listing price of comparable three at \$174,900 and the sale price being \$185,300 that he is unaware of any sales concessions in that situation because it was not reported on the MLS and stated that it would only have been a 5.6% sales concession anyway. He further stated that the original sale price of that property was \$195,900 and was on the market for 195 days. He further stated the ponds on the property were likely only Koi ponds because the property is only 0.28 acres in size. He did not feel there was contributory value for this feature. He also stated the new carpet reference by the Complainant was 18 months old at the time of the appraisal. The respondent stated he believed the comparables used were a good representation of the market at that time and were not "inflated" in any way. He stated that the subject's condition was considered average for the market. He stated the comparables are within the market average in both gross sales price and price per foot and had great physical similarity to the subject property and are all located within the subject's subdivision.

*Prior Complaint / Disciplinary History: 200707313 (Dismissed)*

**Recommendation and reasoning:** Mr. Woodford states that he concurs with the general scope of the appraisal not the conclusions as presented. The appraiser committed a substantial error in date reporting concerning the sale properties as features were omitted that would significantly affect the credibility of the results (Standard Rule 1-1(b)). The failure to recognize seller concessions and consider the affect on value in comparison to cash or financing arrangements equivalent to cash is an omission that affects the credibility of the appraisal (Standard Rule 1-2(c)). The degree of sales analysis, verification and recognition of characteristics falls short of credible work (Standard Rule 1-4(a)). The failure to report and consider items of condition differences, financing differences and swimming pools is considered misleading (Standard Rule 2-1(a)).

Mr. Woodford recommends a civil penalty of \$1,500 and completion of a 15 hours USPAP course, which would not count towards continuing education, and a residential course or seminar of at least 4 hours dealing with residential report writing, which will count towards continuing education.

**Vote:** Mr. Wade made the motion to accept recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

### **3. L08-APP-RBS-2008000391 - Mr. Flowers was the Reviewer.**

The Complainant, a consumer, stated that in 2006 he asked the Respondent to appraise his property to assist in the marketing of the property. The Complainant stated that the Respondent reported a full kitchen in the basement as called a wet bar. In addition, the property that has a bluff

location and view of the valley and a rock feature was given no acknowledgment in the appraisal. The Complainant also stated that the comparables are not similar in the outside features of his house. He stated he felt he should not have to pay for an appraisal that was so flawed.

The Respondent stated that the Complainant was unhappy about the value estimate and that he had to pay for the appraisal when it didn't appraise for the value he was expecting. He stated the kitchen in the basement was labeled as a wet bar, as there is little marketable difference for this feature in this area. He also stated that the view was given value in the site section, and the rock feature is considered part of the landscaping and is included in the overall estimate of value. He further stated that the Complainant has had his home listed since November of 2006 and there have been no offers at the listed amount.

*Prior Complaint / Disciplinary History: None*

**Recommendation and reasoning:** Mr. Flowers recommends dismissal in that the Respondent's appraisal was very good. The Complainant was not happy with the indicated value and would not pay for the work until legal action was taken by the Respondent. The Complainant did not pay the balance of the fees until the day the case was set in court (January 3), and Complainant filed this complaint on January 4, 2008.

**Vote:** Mr. Headden made the motion to accept recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

**4. L08-APP-RBS-2008000571 - Mr. Woodford was the Reviewer.**

The Complainant, a lender, stated that a review was conducted of the Respondent's appraisal and the lender found that:

1. The sales history was not reported in the appraisal consistently.
2. The value conclusion was not adequately reconciled with the subject's transfers/sales history. The subject had recently been foreclosed on and had a subsequent sale.
3. The Respondent used sales that were not "arms length transactions" in a market value appraisal. One of the sales was a foreclosure sale and the other two sales had recent foreclosure transactions.
4. The subject improvements were not adequately reported. The Respondent reported the size of the improvement to be 1005 square feet, but public records information had the size of the improvements at 1231 square feet.

The Respondent stated that:

1. The sales history was reported in the addendum page of the appraisal report.
2. The sales history was reconciled and Respondent reported "no weight was given to these transactions" for the past foreclosure and sale of the subject. The client did not request further information.
3. The foreclosure of sale one was disclosed. He further stated that for the three comparables used, "if the typical seller is an institution and the typical buyer is an individual acquiring the property for typical purposes and with a complete lack of other sales data as related to this particular type, age and location of comparables, I felt that the use of a similar property was proper and minimal weight was given to this transaction in the final analysis of the estimated market value."

4. Pertaining to the discrepancy in square footage, he reported that he measured the exterior of the house with a measuring tape and that he felt the assessor's information may include the garage area.

The Respondent stated he felt that if the Complainant had read the addendum pages then Complainant's issues with the appraisal would have been resolved.

*Prior Complaint / Disciplinary History: None*

**Recommendation and reasoning:** Mr. Woodford recommends dismissal of this complaint, finding no violations of USPAP committed by this Respondent as to this appraisal.

**Vote:** Mr. Wade made the motion to accept recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

#### 5. LO8-APP-RBS-2008000591 - Mr. Wade was the Reviewer

This complaint was filed by an outside agency (lender) and alleged the Respondent misreported the legal description and map reference, did not adequately describe the subject neighborhood, misreported the zoning classification and description, did not accurately or adequately describe the subject improvements and did not include information on the manufactured home that was on-site, did not identify the subject's commercial use in the appraisal report, did not accurately describe or analyze the comparables used, and did not accurately report or reconcile the sales history of the subject property. The Complainant included a letter describing the allegations and a field review conducted by another appraiser in their complaint.

The Respondent stated in his response letter that the legal description was misreported because he reported it as Lot 12 when it was actually meant to read Lot 21. He stated he described the neighborhood boundaries in relation to the town. He stated there was an additional error on his report regarding the zoning. He had reported the property as residential in both fields on the report, but the field reviewer was correct that the property was zoned "A-2, developing agricultural". He stated in the improvements section he misreported the age of the subject as 2006, when it was the manufactured home that was built in 2006. He stated the subject was built in 2002. He wrote that the mobile home is approximately 600 square feet and still has the tongue and axels attached and it is not on a permanent foundation. The Respondent stated the mobile home was ready to be moved if necessary and that the borrowers had plans to have it moved in the future. He stated the lender provided instructions not to consider this mobile home for valuation purposes, but that he failed to include a statement in the appraisal to clarify this. He stated in regards to the percentage of basement finish for the comparables that he cannot always determine from MLS information and calling the Realtors, how much of the basement is finished and to what degree; therefore, he reports these as partially finished rather than including a misleading percentage on information he could not verify. In regards to the Complainant's allegation that he did not report the commercial use of the property, he stated that the current owners had a small salon area that had a couple of seats for haircuts and the owner's equipment along with a closet. He stated that none of these things were installed in a permanent manner and that this room could easily be used as a bedroom or family room. He stated he did not mention it in the appraisal report because he did not feel it had any effect on the overall value of the property or the marketability of the property and that zoning allows for use of "home occupations". Pertaining to the allegation of not accurately analyzing or describing the comparables, he stated two of the three sales had partial brick and one was full brick exterior. He stated the subject was a vinyl exterior home, but that he could not find



any market support to warrant an adjustment for exterior siding. Finally, he stated that with regards to the failure to reconcile the sales history that he had omitted this analysis, but that he is usually very diligent in this respect. He stated that he had verified the previous sale was non-arms length due to a family transfer. He stated that he would have been happy to make corrections for the lender, but the lender only sent him a letter stating that he would be permanently banned from doing appraisals for said lender and that he only needed to respond to their letter if he thought there were errors in the allegations or if he thought identity theft was involved.

**Prior Complaint / Disciplinary History:** None

**Recommendation and reasoning:** Mr. Wade recommends a \$1,000 civil penalty because this appears to be the Respondent's first offense, and that the Respondent take a course on preparing the URAR form. It is the opinion of Mr. Wade that this appraisal report by the Respondent is incomplete due to substantial errors of omission or commission that significantly affects the appraisal. The major errors noted are as follows: the subject's legal description was not accurate; the subject's neighborhood was not adequately described as required by guidelines; the zoning classification and zoning description were not reported correctly; the subject's improvements were not accurately described, particularly the basement and a manufactured home; the commercial use of a portion of the dwelling was not reported; the comparable sales were not accurately described or analyzed in the report; the report did not correctly reflect the sales history of the past 36 months; and, the report did not properly reconcile the three approaches to value. We recommend that the Commission offer the proposed civil penalty and additional hours of education to the Respondent in a proposed consent order, and authorize a formal hearing, if necessary.

**Vote:** Mr. Headden made the motion to accept recommendation and Mr. Woodford seconded the motion. The motion carried unopposed.

#### **6. LO8-APP-RBS-2008003211 - Mr. Flowers was the Reviewer**

This complaint was filed anonymously and alleged the Respondent altered the appraisal to suit the needs of the client. The Complainant alleged that items were omitted, sale prices were changed, square footage was changed, and date of sales changed.

The Respondent stated in his response letter that he does not change appraisals to suit his client's needs and that he never alters an appraisal report. He stated that the appraisal sent with the complaint did not include an addendum which he had sent to the lender stating there was a typo on the address of comparable three. He stated all other information was correct except the address of comparable three. He stated that 400 square foot mobile home that was included with comparable one was in below average condition and did not contribute to value because it was considered only as storage area due to its condition. He stated that comparable two had included an enclosed porch in the living area, which he did not count towards the GLA in the sales grid. The Respondent included this MLS sheet with his response to the complaint.

**Prior Complaint / Disciplinary History:** None

**Recommendation and reasoning:** Mr. Flowers recommends dismissal of this complaint filed anonymously by another appraiser and found as follows: there was a small 400 square foot mobile home included in sale one which had no contributory value in Respondent's opinion; sale two

included an enclosed porch in the MLS gross living area which Respondent did not include in gross living area; in sale three, the Respondent did have the wrong address in the sales grid, but had the correct data in the balance of the sales grid; and, the photo was correct for sale three. Mr. Flowers found that overall, the Respondent's report was in fine shape, and that the anonymous appraiser should have asked Respondent to correct the minor errors.

**Vote:** Mr. Woodford made the motion to accept recommendation and Mr. Bullington seconded the motion. The motion carried unopposed.

## **7. LO8-APP-RBS-2008005621**

This complaint was filed by a consumer which alleged that the Respondent appraised an investment property that he was considering buying which he had not seen. The house was reported to be a 3 bedroom remodeled house. He stated after purchase he found out the property had not been remodeled and was only a two bedroom home.

The Respondent stated in his response letter that he inspected the property in November of 2005 and the property had been completely remodeled which he stated he reported on the first page of the report. He stated the dining room had been converted into a third bedroom. He stated the property may be a rental home and he would check to see if there is any data available on updates and room count since 2005. He further stated that the appraisal was completed "as is" in 2005 and two years and four months have passed since he last inspected the property. He stated he has no current knowledge of the condition or any changes made since that date. He also stated the other property referenced by the Complainant was never a property he had appraised.

Staff viewed the appraisal reports submitted by the Complainant and the Respondent. The photos included appeared to show an average condition exterior of the property in 2005. The building sketch does show three bedrooms. No interior photos were included so the condition and room count could not be verified. The Respondent had a description of the remodeling in the appraisal report in two different places. There seems to be insufficient evidence that the Respondent misreporting the condition and the bedroom totals of the subject property given lack of interior photo evidence and that two years has passed since the effective date of this report.

The effective age was reported to be 10 years in one place in the report and 5 years in the sales grid; this is inconsistent reporting of data. Five years for effective age was used in the cost approach. The cost approach was reported to be not applicable in the reconciliation; however, the cost approach was included in two places in the report. This is another inconsistency of reporting.

### **ADDITIONAL INFORMATION 3/5/08:**

A rebuttal from the complainant was submitted which stated that the dining room could not have been a third bedroom because it is small, would require passing through this room to get to the kitchen, and this room has no closet. They also stated that the floors were not replaced throughout, because it has hardwood floors except in the bathroom and kitchen. They stated they have a contractor working in the house now that could give a statement on its condition. They stated that only one tenant has occupied the house since it was purchased and she recently passed away; however, they stated they could get family members to state that the condition of this property is the same as when it was purchased. Photos were included with this rebuttal that show

damage to the bathroom flooring, problems with paint in areas of the interior and exterior of the home, and other various interior photos of the property.

The Respondent sent in additional information as well in the form of a recent MLS sheet on the property in question. The list date of this MLS offer was 7/27/2007 for \$67,900 and this listing expired after 181 days on the market. The Realtor remarks stated, "Updating includes vinyl siding-floor covering-roof-laundry room addition and water heater....All showings must be made through listing agent-property is occupied by renters."

**ADDITIONAL INFORMATION 3/6/08:**

The Respondent sent in additional response information which further stated that he believes from the photos submitted that the property has not been maintained properly since 2005. He stated there was a different wall lay out at the time of his inspection than was shown in the photos for the bedroom. He restated that the property was listed for \$67,900 in July of 2007. The purchase price in 2005 was \$75,000. The Realtor reported the condition with updates and three bedrooms. He also stated that on the day of his inspection the house had carpet and vinyl flooring, but does not doubt there was hard wood flooring under the carpet. He stated that the carpet may have been removed since 2005. He stated that the MLS listing reports "Vinyl, Carpet" for flooring. He stated that the owner admits that he never saw the interior of the property until recently and he does not feel that waiting two years to file a complaint pertaining to condition has no bearing on the condition the property was in at the time of the appraisal in 2005.

**Prior Complaint / Disciplinary History:** 200500262 (Closed with Consent Order \$1,000 civil penalty and a course in Appraisal Methods)

**Recommendation and reasoning:** Administrative Staff recommended that the Commission authorize issuance of a letter of instruction pertaining to inconsistent reporting of two pieces of data, without requesting Commission review.

**Vote:** Mr. Woodford made the motion to accept recommendation and Mr. Headden seconded the motion. The motion carried unopposed.

## **II. RULES**

The Office of Legal Counsel recommends that the Commission vote to approve the filing of public necessity and proposed rules to amend Rule 1255-1-.08(1)(c)1 to correct a typographical error which inadvertently stated that the applicant for certification as a state certified general real estate appraiser must have only 24 months of appraisal experience under the direct supervision of a certified real estate appraiser. The prior amendments to this rule which contained this error went into effect in February of this year.

Because Congress has mandated that state appraiser regulatory agencies must use the minimum criteria adopted by the Appraisal Qualifications Board (AQB) of the Appraisal Foundation, and since Article III, Sec. 3 of the AQB's Minimum Criteria for qualification as certified general appraiser requires applicants to have a minimum of 30 months of such experience, public necessity rules are required to immediately correct this error.

Since public necessity rules are only effective for a period of 165 days, we would recommend that the Commission simultaneously approve the filing of proposed rules making the same change which would become effective within 30 days after the date of their publication in the Tennessee Administrative Register, absent the filing of an appropriate petition for public hearing within that same 30 day period.

Finally, we would recommend that the Commission approve the separate Economic Impact Statement as to this rulemaking, required as part of the Regulatory Flexibility Act.

Legal counsel presented a draft of the amendment and Economic Impact Statement for the Commission's review.

**Vote:** Mr. Headden made a motion to accept legal counsel's recommendation. Mr. Wade seconded the motion. A roll call vote was held. Mr. Wade: yes; Mr. Flowers: yes; Mr. Bullington: yes; Mr. Woodford: yes. Not present for vote at this meeting were Mr. West, Dr. Baryla, and Mr. Phillips.

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**Investigator Training/USPAP Update**

Dennis Badger, the Chief Investigator of the Kentucky Real Estate Appraisers Board, provided an investigator training session and USPAP update to aide the Tennessee Real Estate Appraiser Commission members and staff in the enforcement aspects complaint investigation and identifying USPAP violations. Mr. Badger began the day with an over-view of Title XI (FIRREA) and the role of the Appraisal Subcommittee of Congress (ASC) and their policy statements. There was a brief over-view of information available in the packets provided by Mr. Badger on OCC requirements. There was also resource information from the FDIC, Federal Reserve Board, and OTS. From the secondary market participants information was summarized from Fannie Mae and Freddie Mac, and HUD. Some relevant USPAP Q and A's were discussed and FAQ's and Advisory Opinions from the 2008 USPAP book were discussed. In the afternoon session, a USPAP quiz was given to test knowledge of USPAP requirements and encourage discussion between what is required and what may be only business practices. A video was also shown at the end of the session of interview techniques for informal conferences to assist in asking questions to set the tone for an interview and also techniques to spot when a person may be providing misleading answers. Mr. Badger concluded the session with a question and answer period that was helpful to staff and Commission members present.

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Being no further business, the meeting was adjourned at 4:00 p.m.

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Nikole Avers, Administrative Director

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William R. Flowers, Jr., Chairman